



Protecting Montana's consumers through insurance and securities regulation

Revise Insurance Laws pertaining to Viatical Settlements – SB151
Sponsored by Senator Sen. John Brueggeman
at the request of the State Auditor's Office
March 2009

EXHIBIT 2
DATE 3-20-09
SB 151

Why this bill is needed:

A viatical settlement is a contract that allows an individual to sell his life insurance policy to a licensed entity, called a viatical settlement provider, for an amount less than the death benefit of the policy. The viatical settlement provider then becomes the owner and beneficiary of the policy. Upon the death of the insured, the viatical settlement provider will receive the death benefit of the policy.

When originally enacted in 1997, viatical settlements allowed terminally ill individuals to use a portion of the death benefit of their life insurance policies for making their end of life more comfortable, paying for experimental treatment that might not be payable under their health insurance, or paying for everyday living expenses when they have lost their income.

In the last 12 years, the viatical settlement industry has changed dramatically. The option to sell your life insurance policy is no longer limited to the terminally ill. Further, the majority of insurance policies purchased by viatical settlement providers today are from individuals at least 65 years of age with a life expectancy of more than 24 months. These transactions are known in the industry as "life settlements" and were allowed in Montana when previous legislation removed the requirement that individual be terminally ill before selling his life insurance policy in a viatical settlement.

What this bill does:

SB 151 addresses the changes in the viatical settlement industry and is based on the most recent model act of the National Conference of Insurance Legislators (NCOIL). The NCOIL model act and SB 151 include provisions addressing fraud and conflict of laws. SB 151 also provides for clearer deadlines regarding timeliness of payments and addresses the case where the viator retains an interest in the policy.

Section 1

33-1-1301 ~ adding "viatical settlement", "viatical settlement broker", "viatical settlement provider".

Section 2

33-1-1302 ~ adding "viatical settlement" to current fraud statute and reference new Section 3.

NEW SECTION. Section 3
Adds "Viatical settlement fraud".

Section 4
33-1-1303 ~ adding "viatical settlement" to the fraud reporting requirements.

Section 5
33-20-1308 (4) ~ adding provisions to address the situation where the viator retains an interest in the policy.

Section 6
33-20-1314 ~ Providing a clear deadline of "3 business days" for transfer of proceeds due to the policyholder or certificate holder.

NEW SECTION. Section 7. Conflict of laws. Addressing the situation where there is more than one owner on a single life insurance policy and the owners are residents of different states.

NEW SECTION. Section 8. Codification instruction

NEW SECTION. Section 9. Severability

NEW SECTION. Section 10. Effective dates